



United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

October 16, 2020

Via ECF & Email

The Honorable Katherine Polk Failla
United States District Court
40 Foley Square
New York, NY 10007
Failla_NYSDChambers@nysd.uscourts.gov

MEMO ENDORSED

Re: *Open Society Justice Initiative, et al. v. Trump*, 20 Civ. 8121 (KPF)

Dear Judge Failla:

This Office represents the defendants (the “Government”) in the above-referenced case, which concerns the application of the United States’ sanctions programs under the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701 *et seq.*, and Executive Order 13,928 (the “EO”) and its implementing regulations.

On October 1, 2020, the plaintiffs commenced this litigation by filing their complaint. Dkt. No. 1. On October 9, 2020, the plaintiffs filed a motion for a preliminary injunction. Dkt. No. 25. Pursuant to Local Civil Rule 6.1(b), the Government’s response to the motion is due 14 days after the filing of the motion or on October 23, 2020, and the plaintiffs’ reply is due seven days after that or on October 30, 2020. The Government respectfully requests a short extension of time to respond to the motion (and commensurate additional time for the plaintiffs’ reply). The Government proposes that its response be due by November 9, 2020 (thirty days from the filing of the motion), and that plaintiffs’ reply be due fourteen days after that or by November 23, 2020. This will allow the Government the additional time needed to compile the evidentiary support for its submission, which requires coordination with multiple agencies. It will also allow the Government time to complete the process of determining whether it will forbear enforcement of the EO and its regulations as to the actions of the plaintiffs that are described in the complaint until after the merits of this case are resolved. Should that happen, the Government will inform the Court of that decision promptly and propose next steps for the case.

This is the Government’s first request for an extension of these deadlines. Plaintiffs do not consent to this extension request and have provided the following reason:

“Plaintiffs are, in principle, amenable to modifying the briefing schedule for the motion for preliminary injunction in the manner you have proposed, *i.e.*, setting the deadline for the opposition at 30 days from the filing of the motion and the deadline for the reply 14 days thereafter. Plaintiffs are also, in principle, amenable to proposing to the Court a different proposed briefing schedule that is mutually agreeable to the parties. However, in light of the fact that the exercise of Plaintiffs’ constitutional rights is being chilled by the threats they face of enforcement of civil and criminal penalties under IEEPA and designation under the Executive Order, Plaintiffs’ assent to any such enlargement of the deadlines is contingent upon the

Government agreeing to forbear taking those actions while the motion for preliminary injunction is pending.”

The Government responds that, as mentioned above, the defendant agencies are in the process of discussing forbearance during the pendency of this matter, however, and the need to complete that process is one of the reasons for the Government’s modest extension request.

I thank the Court for its consideration of this request.

Respectfully,

AUDREY STRAUSS
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for the Southern District of New York

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cc: Counsel for plaintiffs (via ECF & Email)

Application GRANTED, on the condition that the Government forbear for, at least, the period of the extension, through November 23, 2020. With that proviso, the Government may file its response on or before **November 9, 2020**, and Plaintiffs' reply is due on or before **November 23, 2020**.

Dated: October 19, 2020
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE